

1 HOUSE BILL NO. 744

2 INTRODUCED BY E. CLARK

3 BY REQUEST OF THE HOUSE JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN
4 SERVICES5
6 A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE DEPARTMENT OF PUBLIC HEALTH AND
7 HUMAN SERVICES TO SEEK FEDERAL FUNDS TO OFFSET GENERAL FUND EXPENDITURES TO THE
8 MAXIMUM EXTENT POSSIBLE; DIRECTING THE DEPARTMENT TO EVALUATE THE PROPOSED MEDICAID
9 BLOCK GRANT AS PART OF REFINANCING ACTIVITIES AND REPORT FINDINGS AT EACH REGULAR
10 MEETING OF THE LEGISLATIVE FINANCE COMMITTEE; ~~DIRECTING THAT THE GOVERNOR MAY NOT OPT~~
11 ~~TO ACCEPT A MEDICAID BLOCK GRANT WITHOUT LEGISLATIVE CONSENT IF THE DECISION TO ACCEPT~~
12 ~~THE GRANT CAN BE DELAYED UNTIL THE NEXT REGULAR SESSION OF THE LEGISLATURE;~~ PROVIDING
13 FOR THE USE OF FUNDING OBTAINED PURSUANT TO THE DIRECTIVE; AUTHORIZING THE
14 DEPARTMENT TO REINSTATE SERVICES IF AUTHORIZED BY THE OFFICE OF BUDGET AND PROGRAM
15 PLANNING; AMENDING SECTIONS 17-2-108 AND 53-6-101, MCA; AND PROVIDING AN EFFECTIVE DATE."16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1819 NEW SECTION. Section 1. Refinancing by department. The department of public health and human
20 services shall seek federal funds to offset general fund expenditures to the maximum extent possible. The cost
21 administration and any supporting contract efforts to claim federal funds above historic levels must be funded
22 from anticipated and realized savings from refinancing work in the department of public health and human
23 services. To the extent that the department of public health and human services is involved in refinancing work
24 in other departments, the department of public health and human services shall receive a share of savings
25 generated in those departments through work conducted by the department of public health and human services,
26 in an amount at least equal to the cost of conducting the work.
2728 NEW SECTION. SECTION 2. EVALUATION OF PROPOSED MEDICAID BLOCK GRANT AND ACCEPTANCE OF
29 GRANT. (1) AS PART OF ITS REFINANCING DUTIES, THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES SHALL
30 EVALUATE THE PROPOSED MEDICAID BLOCK GRANT AND REPORT ITS FINDINGS WITH RESPECT TO THE CRITERIA IN

1 SUBSECTION (2) TO THE LEGISLATIVE FINANCE COMMITTEE AT EACH REGULAR MEETING OF THE COMMITTEE.

2 (2) THE DEPARTMENT SHALL USE THE FOLLOWING CRITERIA IN ITS EVALUATION OF THE PROPOSED MEDICAID
3 BLOCK GRANT COMPARED TO OTHER MEDICAID FUNDING ALTERNATIVES FROM WHICH THE STATE MAY CHOOSE:

4 (A) TOTAL COST TO THE STATE OVER THE LIFE OF THE BLOCK GRANT AND DURING EACH YEAR OF THE BLOCK
5 GRANT COMPARED TO THE STATE COST OF MAINTAINING MEDICAID ELIGIBILITY AND SERVICE LEVELS FUNDED BY THE
6 LEGISLATURE DURING THE CURRENT BIENNIUM;

7 (B) TYPES OF FLEXIBILITY;

8 (C) ADVANTAGES AND DISADVANTAGES; AND

9 (D) POLICY CHOICES THAT MAY OCCUR.

10 (3) (A) THE LEGISLATIVE FINANCE COMMITTEE SHALL REVIEW AND ANALYZE THE DEPARTMENT'S FINDINGS AND
11 MAKE A RECOMMENDATION TO THE GOVERNOR AND TO THE DEPARTMENT WITH REGARD TO ACCEPTANCE OR REJECTION
12 OF THE BLOCK GRANT IF THE STATE IS REQUIRED TO MAKE A DECISION AS TO WHETHER TO ACCEPT OR REJECT THE BLOCK
13 GRANT PRIOR TO THE NEXT REGULAR CONVENING OF THE LEGISLATURE.

14 (B) THE GOVERNOR SHALL CONSIDER THE RECOMMENDATION OF THE LEGISLATIVE FINANCE COMMITTEE AND
15 PROVIDE A WRITTEN RATIONALE TO THE COMMITTEE IF THE RECOMMENDATION OF THE COMMITTEE IS NOT FOLLOWED.

16 ~~———— (4) IF FEDERAL LAWS ALLOW THE STATE TO DELAY THE DECISION AS TO WHETHER TO ACCEPT THE MEDICAID~~
17 ~~BLOCK GRANT UNTIL THE NEXT REGULAR SESSION OF THE LEGISLATURE, THE GOVERNOR MAY NOT OPT TO ACCEPT THE~~
18 ~~MEDICAID BLOCK GRANT WITHOUT LEGISLATIVE CONSENT.~~

19
20 NEW SECTION. Section 3. Use of funding obtained by refinancing. (1) It is the intent of the
21 legislature that general fund savings generated through the refinancing work described in [section 1] be applied
22 in the following priority:

23 (a) the savings must be applied to fund the refinancing activities;

24 (b) the department of public health and human services may retain funds to maintain existing services;

25 and

26 (c) the department of public health and human services may use funds to reinstate services that have
27 been cut during the 2003 biennium.

28 (2) Additional funds generated through refinancing savings, beyond those used pursuant to subsection
29 (1), revert to the general fund. Prior to reinstating services pursuant to subsection (1)(c), the department shall
30 receive approval from the office of budget and program planning of its service reinstatement plan.

1 (3) The provisions of 17-2-108 that require the expenditure of nongeneral fund money prior to the
2 expenditure of general fund money do not apply to the expenditure of revenue made available to the department
3 because of the refinancing efforts required by [section 1].
4

5 **Section 4.** Section 17-2-108, MCA, is amended to read:

6 **"17-2-108. Expenditure of nongeneral fund money first.** (1) Except for the exemptions applicable
7 to the Montana historical society in 22-3-114(5), ~~and~~ the Montana state library in 22-1-226(5), and the
8 department of public health and human services in [section 2 3], an office or entity of the executive, legislative,
9 or judicial branch of state government shall apply expenditures against appropriated nongeneral fund money
10 whenever possible before using general fund appropriations.

11 (2) ~~The~~ Except as provided in [section 2 3], the approving authority, as defined in 17-7-102, shall
12 authorize the decrease of the general fund appropriation of an agency by the amount of money received from
13 federal sources in excess of the appropriation in an appropriation act unless the decrease is contrary to federal
14 law, federal rule, or a contract or unless the approving authority certifies that the services to be funded by the
15 additional money are significantly different than those for which the agency received the general fund
16 appropriation. If directed by an appropriation act, the approving authority shall decrease the general fund
17 appropriation of an agency by the amount of money received from nonfederal sources in excess of the
18 appropriation unless the decrease is contrary to state law, state rule, or a contract or unless the approving
19 authority certifies that the services to be funded by the additional money are significantly different than those for
20 which the agency received the general fund appropriation. If the general fund appropriation of an agency is
21 decreased pursuant to this section, the appropriation for the fund in which the money is received is increased
22 in the amount of the general fund decrease."
23

24 **Section 5.** Section 53-6-101, MCA, is amended to read:

25 **"53-6-101. Montana medicaid program -- authorization of services.** (1) There is a Montana medicaid
26 program established for the purpose of providing necessary medical services to eligible persons who have need
27 for medical assistance. The Montana medicaid program is a joint federal-state program administered under this
28 chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be
29 amended. The department of public health and human services shall administer the Montana medicaid program.

30 (2) Medical assistance provided by the Montana medicaid program includes the following services:

- 1 (a) inpatient hospital services;
- 2 (b) outpatient hospital services;
- 3 (c) other laboratory and x-ray services, including minimum mammography examination as defined in
4 33-22-132;
- 5 (d) skilled nursing services in long-term care facilities;
- 6 (e) physicians' services;
- 7 (f) nurse specialist services;
- 8 (g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age;
- 9 (h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided
10 in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;
- 11 (i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant
12 women;
- 13 (j) services that are provided by physician assistants-certified within the scope of their practice and that
14 are otherwise directly reimbursed as allowed under department rule to an existing provider;
- 15 (k) health services provided under a physician's orders by a public health department; and
- 16 (l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2).
- 17 (3) ~~Medical Subject to [section 2], medical~~ MEDICAL assistance provided by the Montana medicaid
18 program may, as provided by department rule, also include the following services:
- 19 (a) medical care or any other type of remedial care recognized under state law, furnished by licensed
20 practitioners within the scope of their practice as defined by state law;
- 21 (b) home health care services;
- 22 (c) private-duty nursing services;
- 23 (d) dental services;
- 24 (e) physical therapy services;
- 25 (f) mental health center services administered and funded under a state mental health program
26 authorized under Title 53, chapter 21, part 2;
- 27 (g) clinical social worker services;
- 28 (h) prescribed drugs, dentures, and prosthetic devices;
- 29 (i) prescribed eyeglasses;
- 30 (j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

- 1 (k) inpatient psychiatric hospital services for persons under 21 years of age;
- 2 (l) services of professional counselors licensed under Title 37, chapter 23;
- 3 (m) hospice care, as defined in 42 U.S.C. 1396d(o);
- 4 (n) case management services as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted
- 5 case management services for the mentally ill;
- 6 (o) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C. 1396d(h),
- 7 in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201; and
- 8 (p) any additional medical service or aid allowable under or provided by the federal Social Security Act.
- 9 (4) Services for persons qualifying for medicaid under the medically needy category of assistance as
- 10 described in 53-6-131 may be more limited in amount, scope, and duration than services provided to others
- 11 qualifying for assistance under the Montana medicaid program. The department is not required to provide all
- 12 of the services listed in subsections (2) and (3) to persons qualifying for medicaid under the medically needy
- 13 category of assistance.
- 14 (5) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S.
- 15 department of health and human services, the department of public health and human services may implement
- 16 limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are
- 17 receiving financial assistance, as defined in 53-4-201, as the specified caretaker relative of a dependent child
- 18 under the FAIM project and for all adult recipients of medical assistance only who are covered under a group
- 19 related to a program providing financial assistance, as defined in 53-4-201. Basic medicaid benefits consist of
- 20 all mandatory services listed in subsections (2)(a) through (2)(l) but may include those optional services listed
- 21 in subsections (3)(a) through (3)(p) that the department in its discretion specifies by rule. The department, in
- 22 exercising its discretion, may consider the amount of funds appropriated by the legislature, whether approval
- 23 has been received as provided in [section 2 3], and whether the provision of a particular service is commonly
- 24 covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability
- 25 provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled
- 26 to full medicaid coverage.
- 27 (6) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C.
- 28 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles,
- 29 and coinsurance for persons not otherwise eligible for medicaid.
- 30 (7) The department may set rates for medical and other services provided to recipients of medicaid and

1 may enter into contracts for delivery of services to individual recipients or groups of recipients.

2 (8) The services provided under this part may be only those that are medically necessary and that are
3 the most efficient and cost-effective.

4 (9) The amount, scope, and duration of services provided under this part must be determined by the
5 department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

6 (10) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

7 (11) If available funds are not sufficient to provide medical assistance for all eligible persons, the
8 department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical
9 services made available under the Montana medicaid program.

10 (12) Community-based medicaid services, as provided for in part 4 of this chapter, must be provided
11 in accordance with the provisions of this chapter and the rules adopted under this chapter.

12 (13) Medicaid payment for personal-care facilities may not be made unless the department certifies to
13 the director of the governor's office of budget and program planning that payment to this type of provider would,
14 in the aggregate, be a cost-effective alternative to services otherwise provided."

15

16 NEW SECTION. Section 6. Codification instruction. [Sections 1 ~~and 2~~ THROUGH 3] are intended to
17 be codified as an integral part of Title 53, chapter 1, part 6, and the provisions of Title 53, chapter 1, part 6, apply
18 to [sections 1 ~~and 2~~ THROUGH 3].

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20 NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2003.

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